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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,796	12/19/2001	Stephen Todd	EMC-034PUS	6077
51576 7590 11/29/2008 EMC CORPORATION c/o DALY, CROWLEY, MOFFORD & DURKEE, LLP 354ATURNPIKE STREET SUITE 301A CANTON, MA 02021-2714				
EXAMINER AL HASHEMI, SANA A				
ART UNIT 2169		PAPER NUMBER		
NOTIFICATION DATE 11/20/2008		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@dc-m.com  
amk@dc-m.com

### Office Action Summary

**Application No.**

10/024,796

**Applicant(s)**

TODD ET AL.

**Examiner**

Sana Al-Hashemi

**Art Unit**

2169

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

### **DETAILED ACTION**

This action is issued in responds to application amendment filed 10/29/07.

Claims 1-23 were previously presented. No claims were added. No Claims were canceled.

Claims 1-23 are pending.

### ***Response to Amendment***

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

### ***Claim Rejections - 35 USC § 102***

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-22 are rejected under 35 U.S.C 102(e) as being anticipated by Peters et al. (Peters hereinafter) US Patent NO. 5,884,284 filed Aug. 6, 1997. Issued March 16, 1999. Applicant is advised to consider the reference as a whole.

Regarding Claims 21, 1, and 22, Peters discloses a method, apparatus, and computer program product residing on a computer-readable medium for managing workflows in a service provider environment in which a service provider provides data

storage resources to a customer, the computer program product comprising instructions causing a computer to:

provide a the customer with a list of types of work order requests to select work to be performed (Col. 19, lines 4-9, wherein the choices provided to the user corresponds to the list of types of work orders, Peters) based on a permission level defining a level of access to the data storages resources allowed to associated with the customer (Col. 5, lines 39-42, Peters), the work order requests comprising requests to manage configuration of the data storage resources provided to the customer( Col. 5, lines 42-46, Peters), wherein the types of work order requests comprise at least one of requests to (Col. 7, lines 44-51, wherein the method of displaying al functions corresponds to list of the types of work order requests, Peter):

create a mirror;

restore remote mirroring (Col. 10, lines 22-29, wherein the method of allowing the user to access, modify and update the work order remotely corresponds to the claimed limitation, Peter); or

receive a selection of a type of work order request from the customer prior to performance of work associated with the selection (Col. 5, lines 55-60, wherein the cited numerous options corresponds to the selection claimed, Peters):

enable the customer to generate a work order request of the selected type in a work order request submission (Col. 7, lines 44-48, wherein the variety of reports and bills are generated, and col. 8, lines 47-46-50, wherein the user is enable to view, modify and update in other words generate a report, Peters);

create a database object based on the work order request; and  
store the database object in a database (Col. 19, lines 20-21, Peters).

Regarding Claim 2, Peters discloses a method, wherein enabling comprises:  
providing to the customer at least one task screen corresponding to the selected  
type of work order request and usable by the customer to generate the work order  
request (Col. 9, lines 17-27, Peters).

Regarding Claim 3, Peters discloses a method, wherein the work order request  
comprises values of parameters specific to the selected type of work order request (Col.  
9, lines 35-42, wherein the functions including billing, messages, function which  
corresponds to the values of parameters specific type, Peters).

Regarding Claim 4, Peters discloses a method, wherein the database object  
comprises elements that include a customer identifier and the selected type of work  
order request (Col. 9, lines 49-56, wherein the order information corresponds to the  
element including customer identifier, Peters).

Regarding Claim 5, Peters discloses a method, wherein the elements further  
include a state to indicate status of the work order request (Col. 9, lines 51-56, wherein  
the work order discloses the status of the work order such as cancel work, modify order  
which corresponds to the claimed state to indicate the status, Peters).

Regarding Claim 6, Peters discloses a method, wherein the state is set to  
indicate a new" work order request initially and later changed to indicate a closed work  
order request (Col. 10, lines 30-36, Peters).

Regarding Claim 7, Peters discloses a method, further comprising:

assigning a work order request identifier to the work order request (Col. 13, lines 1-11, wherein the command for report function corresponds to the work order request identifier, Peters); and

providing the assigned work order request to the customer (Col. 13, lines 44-51, Peters).

Regarding Claim 8, Peters discloses a method, wherein the database object is stored in the database as a table entry (Fig. 3, step 122, Peters), the table entry including fields to store information associated with each of the elements (Fig. 4, Peters).

Regarding Claim 9, Peters discloses a method, wherein the elements further comprise the assigned work order request identifier and the work order request is stored in one of the fields in the table entry (Fig. 4, step 142, Peters).

Regarding Claim 10, Peters discloses a method, further comprising:

processing the work order request using the table entry, processing comprising attempting to perform any tasks required to satisfy the work order request (Col. 16, lines 6-12, Peters); and

updating the state based on the results of the processing (Col. 9, lines 50-56, Peters).

Regarding Claim 11, Peters discloses a method, wherein updating comprises:

marking the state to indicate that the work order request is closed if such tasks are performed successfully (Col. 10, lines 40-44, Peters); and

marking the state to indicate a failure if such tasks are not performed successfully; (Col. 10, lines 33-34, wherein the "delete miscellaneous jobs which are not related to work order corresponds to the limitations of failure if such tasks are not performed successfully, Peters).

Regarding Claim 12, Peters discloses a method, further comprising:

generating a billable event when the work order request is closed (Col. 29, lines 3-10, Peters); and

storing the billable event in the database in association with the customer identifier and account information (Col. 29, lines 11-17, Peters).

Regarding Claim 13, Peters discloses a method, wherein work order request submission is in the form of an email (Col. 5, Lines 2-6, Peters).

Regarding Claim 14, Peters discloses a method, wherein work order request submission is in the form of HTTP (Col. 15, lines 33-35, wherein the "on-line" corresponds to the HTTP since it is an on line service, Peters).

Regarding Claim 15, Peters discloses a method, wherein processing is managed by a workflow automation that periodically queries the database to locate any new work order requests based on the state in the table entry for each work order request (Col. 15, lines 61-64, wherein the automatic update corresponds to the claimed periodically queries the database to locate any new work order requests based on the state in the table entry for each work order request, Peters).

Regarding Claim 16, Peters discloses a method, wherein the processing, updating, and the generating and storing of the billable event are handled by the workflow automation (Col. 30, lines 39-46, Peters).

Regarding Claim 17, discloses a method, wherein the workflow automation invokes other processes needed to perform the work order request (Col. 29, lines 23-50, the cited functions are used to perform the work order, Peters).

Regarding Claim 18, Peters discloses a method, wherein processing is managed manually by an administrator of the service provider (Col. 5, lines 38-43, Peters).

Claim 19, Peters discloses a method, wherein the processing, updating, and the generating and storing of the billable event are handled manually by the service provider administrator (Col. 5, lines 38-48, Peters).

Regarding Claim 20, Peters discloses a method, wherein the processing, updating, and the generating and storing of billable events are managed manually by the service provider administrator when the state indicates a failure (Col.10, lines 22-36, Peters).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 23 rejected under 35 U.S.C. 103(a) as being unpatentable over Peters et al. (Peters hereinafter) US Patent NO. 5,884,284 filed Aug. 6, 1997. Issued March 16, 1999. in



view of Bromley et al (Bromley hereinafter) US Patent No. 7,099,900 filed Sep. 13, 2001. Applicant is advised to consider the reference as a whole

Regarding Claim 23, Peters discloses all the limitations as stated above. However, Peters is silent with respect to the use of the "list of the types of work order requests further comprises request to split a business continuance". On the other hand Bromley discloses the list of the types of work order requests further comprises request to split a business continuance at Col. 7, lines 26-35. it would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate the use of BCV in the Peters system. Skilled artisan would have been motivated to make such modification to Peters's system to backup the data in case of disaster, since it is well known in the art that the BCV system is used to back up data in case of fire or disasters.

#### ***Response to Arguments***

It is a well settled rule that a reference must be considered not only for what it expressly teaches but also for what it fairly suggests. See *In re Burckel*, 592 F.2d 1175, 201 USPQ 67 (CCPA 1979) and *In re Lamberti*, 545 F.2d 747, 192 USPQ 278 (CCPA 1976) as well as *In re Bode*, 550 F.2d 656, 193 USPQ 12 (CCPA 1977) which indicates such fair suggestions to unpreferred embodiments must be considered even if they were not illustrated. Additionally, it is an equally well settled rule that what a reference can be said to fairly suggest relates to the concepts fairly contained therein, and is not

limited by the specific structure chosen to illustrate such concepts. *See In re Bascom*, 230 F.2d 612, 109 USPQ 98 (CCPA 1956).

Applicant's arguments filed 9/11/08 with respect to claims 1-23 have been fully considered but they are not persuasive.

Applicant argues the reference fails to disclose "a list of the types of work order requests includes at least one request to create a mirror or to restore remote mirroring (see for example page 11, lines 18 to 26 of applicant's specification)".

Examiner disagrees. The Peters reference as shown in Col. 6, lines 32-37 wherein other database are maintaining alternate address, work orders, service order, jobs etc, corresponds to the argued limitations.

Applicant argues the "Examiner had ignore the word 'mirroring'".

Examiner disagrees. Peters at Col. 8, and 9, lines 66-67 , and 1-4 respectively discloses the method if storing and **duplicating** which is as defined by the applicant is a mirroring.

Applicant argues the "Peters does not disclose or suggest the work order requests include requests to manage configuration of the data storage resource provided to the customer".

Examiner disagrees. The cited portion of Peters discloses the method of allowing the system administrator to choose to allow different levels of access to the

application corresponds to the method of manage configuration since changing the level of access means changing the configuration.

Applicant argues the examiner is alleging that a report is a work order request.

Examiner disagrees. The work order is disclosed in the reference discloses the work order as shown in more than one citation such as Col. 6, line 66.

Applicant argues first the reference does not discloses a "work order" and in the following argument applicant argues the "work order" disclosed by the reference is not the same "work order" as claimed.

Examiner disagrees. First the reference discloses the work order as claimed. Second the usage of the work order may be different than the claimed work order and that is the intended use of the work order which carry no patentable weight.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Point of Contact***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sana Al-Hashemi whose telephone number is 571-272-4013. The examiner can normally be reached on 8Am-4:30Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pierre Vital can be reached on 571-272-4125. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sana Al-Hashemi/  
Primary Examiner, Art Unit 2169  
11/17/08

